

General Purposes committee 8th March 2007

Report title: Changes to maternity and adoption leave April 2007

Report of Head of Personnel

1. Purpose

To outline the changes to maternity and adoption leave rights in line with the Work and Families Act 2006. This will affect employees where their expected week of childbirth or for those adopting; the date matched with a child is on or after 1 April 2007.

2. Recommendations

That this committee agree

- a. A revision of existing policy to reflect the changes to maternity rights as set out in the Work and Families Act 2006 for those whose expected week of childbirth is on or after 1 April 2007.
- b. A revision of existing policy to reflect the changes to adoption rights as set out in the Work and Families Act 2006 for those who are matched with a child is on or after 1 April 2007.

Report authorised by:



for Chief Executive

Contact officer: **Stuart Young, Head of Personnel**

Telephone: **3174**

3. Access to information:

Local Government (Access to Information) Act 1985

No documents that require to be listed were used in the preparation of this report.

4. Background

In April 2006 the Work and Families Act made amendments to the Employment Rights Act 1996 to provide for the changes below with regard to maternity and adoption rights.

The changes only affect employees where their expected week of childbirth or for those adopting; the date matched with a child is on or after 1 April 2007.

Previous rights apply to people who are due to go on maternity or adoption leave before this date.

The changes to maternity and adoption leave entitlements are as follows:

Maternity leave

- The qualifying period for entitlement to 26 weeks additional maternity leave is removed. All women will therefore be entitled to 52 weeks maternity leave comprising of 26 weeks ordinary maternity leave and 26 weeks additional maternity leave.
- Women who have 26 weeks service by the 15th week before the expected week of childbirth (EWC) and have average earning above the required threshold are now entitled to 39 weeks statutory maternity pay (SMP) instead of 26 weeks. The first 6 weeks of which will be paid at 90% of average weekly earnings and the remainder at the lower statutory level (currently £108.85 per week or 90% of the average weekly earnings if this is less than £108.85 per week).
- Where a woman does not qualify for SMP, Statutory Maternity Allowance (SMA) will be payable for 39 weeks instead of 26 weeks providing the woman has earned on average at least £30 a week in your test period. The test period is 13 weeks within a period of 66 weeks up to and including the week before the expected week of childbirth.
- Women must give 8 weeks notice if they wish to return early from maternity leave instead of 28 days.
- Maternity leave no longer needs to commence on a Sunday.
- Women have the right to do up to 10 days work during maternity leave without this affecting SMP or SMA. This can be for training, work or keeping in touch.
- All other rights remain unchanged.

See section 5. Implications for Council policy, for the changes to the maternity pay.

Adoption leave

- An adoptive parent is entitled to up to 52 weeks adoption leave. This comprises of 26 weeks ordinary adoption leave and where they have 26 weeks service ending with the week in which they are matched with a child, 26 weeks additional adoption leave.
- An adoptive parent with 26 weeks service by the week matched with a child and who has average earnings above the required threshold is entitled to 39 weeks

statutory adoption pay (SAP) instead of 26 weeks. This will be paid at £108.85 per week or 90% of the average weekly earnings if this is less than £108.85 per week.

- All other rights remain unchanged.

5. Implications for Council policy

At present policies do not detail the arrangements for staff where their expected week of childbirth or for those adopting; the date matched with a child is on or after 1 April 2007. Revisions will need to be made to existing policy to reflect the changes set out in the Work and Families Act 2006 for those qualifying for the new maternity and adoption rights.

The main changes to maternity pay will be as follows:

Table 1

Maternity eligibility criteria	Expected week of childbirth before 1 April 2007	Expected week of childbirth on or after 1 April 2007
Women who joined Haringey Council before 1st April 1993	28 weeks full pay OR 16 weeks full pay and 24 weeks at half pay.	28 weeks full pay plus 11 weeks at current SMP rate OR 16 weeks full pay and 24 weeks at half pay
Women who joined Haringey Council after 1st April 1993 and have been continuously by Haringey for one year at the beginning of the 11th week before the week in which the baby is due.	14 weeks full pay plus 12 weeks paid at current SMP rate OR 8 weeks full pay plus 12 weeks half pay plus 6 weeks at current SMP rate	14 weeks at full pay plus 25 weeks paid at current SMP rate OR 8 weeks full pay plus 12 weeks half pay plus 19 weeks at current SMP rate.
Women who do not have one year's continuous service with Haringey but do have one year's continuous service in Local Government at the beginning of the 11th week in which the baby is due.	6 weeks at 9/10 th s of a week's pay plus 12 weeks at half pay plus 6 weeks at current SMP rate.	6 weeks at 9/10 th s of a weeks pay plus 12 weeks at half pay plus 21 weeks at current SMP rate.
Women who have less than one year's continuous Local Government service but will have 26 weeks continuous service by the end of the 15th week before the week in which the baby is due.	6 weeks at 9/10 th of a weeks pay plus 20 weeks SMP (where eligible).	Statutory entitlements apply – 6 weeks at 9/10ths of a weeks pay plus 33 weeks at current SMP rate.

The main changes to adoption pay will be as follows:

Table 2

Adoption eligibility criteria	Matched to a child before 1 April 2007	Matched to a child after 1 April 2007
Employees who joined Haringey Council before 1st April 1993	24 weeks leave at half pay & 2 weeks at current SAP rate	24 weeks leave at half pay & 15 weeks at current SAP rate
Employees who joined Haringey Council after 1st April 1993 and have 1 year's continuous service with Haringey.	12 weeks leave at half pay & 14 weeks at SMP	12 weeks leave at half pay & 27 weeks at SAP
Employees with 26 weeks service by the week in which they are notified they have been matched with a child	26 weeks at current SAP rate	39 weeks at current SAP rate

6. Proposals

That in the first instance revisions be made to existing maternity and adoption related policies so that guidance on entitlements for employees taking maternity or adoption leave pre or post 1st April 2007 run in parallel.

That the guidance relating to those qualifying on or after 1st April 2007 will eventually supersede any existing policy.

7. Legal Services Comments

The Head of Legal Services has been consulted on the contents of this report. Legal Services will provide specific advice to Personnel once the amended policy has been drafted.

8. Financial Implications

For the period February 2006 to February 2007, 268 women took maternity leave. If the same number of women (with the same maternity eligibility criteria) took maternity leave under the new entitlement of 39 weeks SMP, the additional cost to the Council would be approximately £336,673. It is anticipated that any additional costs will be contained within existing cash limits.

9. Equalities implications

Adoption Leave

The Act appears to give an entitlement of up to 52 weeks adoption leave to all adoptive parents (26 weeks ordinary adoption leave and 26 weeks additional adoption leave).

However, it appears that not all adoptive parents will be able to claim the full entitlement of 52 weeks as the Act also appears make as a condition for the full entitlement of 52 week, a qualification period of 26 weeks continuous service that is matched with the child to be adopted.

This apparent qualification period retains an element of disparity in treatment between those adoptive parents who meet the 26 week service criterion and those that do not.

Maternity leave

In relation to maternity leave, the Work and Family Act introduces an element of equality between women in employment, specifically in regard to maternity leave rights

By removing the qualification period for entitlement to additional leave, and by introducing an entitlement of 52 weeks for all women (26 weeks ordinary maternity leave and 26 weeks additional maternity leave), an element of discrimination between expectant women in employment is removed. This is a move in the right direction and will contribute to promoting equality between women in employment.

The Act does not remove disparity of treatment based on earnings or address differences in occupational schemes where enhanced entitlement is based on length of service.